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1	UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION			S T I P U L A T I O N
2	SIOUX STEEL COMPANY, a South Dakota corporation,			It is hereby stipulated and agreed by and between the
3	Plaintiff,	Civ. 15-4136		above-named parties through their attorneys of record, whose
4	vs.			appearances have been hereinabove noted that the deposition
5	KC ENGINEERING, P.C., an Iowa corporation,			of DEREK MATTHIES, PE, may be taken at this time and place,
6	Defendant.			that is, at the offices of Boyce Law Firm, LLP, 300 South
7	Deposition of: DEREK MATTHIES, PE Date: February 27, 2017 Time: 12:05 p.m.			7 Main Avenue, Sioux Falls, South Dakota, on the 27th day of
8				8 February, 2017, commencing at the hour of 12:05 p.m.; said
9				9 deposition taken before Audrey M. Barbush, a Registered
10				10 Professional Reporter and Notary Public within and for the
11				11 State of South Dakota; said deposition taken for the purpose
12				12 of discovery or for use at trial or for each of said
13				13 purposes, and said deposition is taken in accordance with
14				14 the applicable Rules of Civil Procedure as if taken pursuant
15				15 to written notice. Objections, except as to the form of the
16				16 question, are reserved until the time of trial. Insofar as
17				17 counsel are concerned, the reading and signing of the
18				18 transcript by the witness is not waived.
19				-oOo-
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22				
23				DEREK MATTHIES, PE,
24				called as a witness, having been first duly sworn,
25				testified as follows:
1	I N D E X			
2	Examination:	Page		1 MR. GOODSELL: Counsel, I think we're taking these
3	By Mr. Goodsell	4		2 depositions pursuant to notice, and then at the request
4	Exhibit Nos.:	Page		3 of the defendant you've asked that we take Derek first;
5	<u>Exhibit 17</u> - Proposal, July 30, 2012, KC 81-82	8		4 is that correct?
6	<u>Exhibit 18</u> - Job Information Sheet, KC 1	19		5 MR. TOBIN: Correct.
7	<u>Exhibit 19</u> - Engineering Analysis and Design Review,			6 MR. GOODSELL: Okay. And the depositions can be
8	August 28, 2012, PLF 3-4	20		7 used for all purposes under the Rules of Civil
9	<u>Exhibit 20</u> - Addendum Letter, October 2, 2012, KC 37-38	22		8 Procedure, correct?
10	<u>Exhibit 21</u> - E-mail, KC 50-52	43		9 MR. TOBIN: Correct.
11	<u>Exhibit 22</u> - Project Account Detail, KC 87-89	43		10 EXAMINATION
12	<u>Exhibit 23</u> - 30' Hopper Cone Assembly drawing, KC 213	45		11 BY MR. GOODSELL:
13	<u>Exhibit 24</u> - Hopper Panel - Upper RH drawing, KC 218	45		12 Q Would you state your full name for the record, please.
14	<u>Exhibit 25</u> - Handwritten notes, PLF 28-31	46		13 A Derek Matthies.
15	<u>Exhibit 26</u> - ANSI/ASAE EP 433	54		14 Q What's your professional address, Derek?
16		-oOo-		15 A 4300 Lakeport --
17	(The original transcript was provided to Mr. Goodsell.)			16 Q That's where --
18		-oOo-		17 A -- Sioux City.
19				18 Q -- the office of KC is at in Sioux City?
20				19 A Correct.
21				20 Q Now, have you had your deposition taken before?
22				21 A No.
23				22 Q First time?
24				23 A Yes.
25				24 Q Well, if you don't understand one of my questions, you
				25 tell me. Okay?

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<p>1 Q Now, KC Engineering was to review calculations, 2 correct? 3 A Correct. 4 Q It's my understanding that calculations were not 5 provided to KC; is that correct? 6 A Correct. 7 Q But the review drawings were provided, correct? 8 A Yes. 9 Q And then it's my understanding that you were going to 10 perform what is referred to as an RISA-3D finite 11 analysis, correct? 12 A Yes. 13 Q So if we look under the scope of services is that 14 KC Engineering was to review drawings, correct? 15 A Yes. 16 Q And this would be from a structural engineer analysis 17 perspective, correct? 18 A Yes. 19 Q You were to look at calculations, but that was not 20 done, correct? 21 A Correct. 22 Q And then there was an RISA-3D infinite[sic]-element 23 analysis, correct? 24 A Yes. 25 Q Okay. Now, continuing on the same document, it says,</p>		
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<p>1 "We will use the following references in our review." 2 Did you use all those references? 3 A Yes. 4 Q And did the drawings submitted to you for review meet 5 the design standards set forth under No. 1, "Design of 6 Steel Bins for Storage of Bulk Solids," by Gaylord and 7 Gaylord? 8 A I believe what we looked at did. 9 Q Are you telling me then that you qualified what you 10 looked at? 11 A I'm not sure I understand the question. 12 Q Well, did you qualify the hopper assemblies that you 13 looked at when you did your structural analysis? 14 A Yes. I believe -- I mean, our reports stated that. 15 Q And we're going to come to that report later on. I'm 16 just wondering, as you're going through right now, did 17 you qualify any aspect of your review? 18 A If it qualified for the Gaylord and Gaylord book? 19 Q Yes. 20 A Yes. That book mainly we used for the design 21 pressures. So in terms of -- 22 Q This would be both static and dynamic pressures? 23 A I would say more static. We would have used the second 24 reference for dynamic. 25 Q Okay. And the second reference here is the ANSI/ASAE</p>	<p>1 A No. 2 Q Now, I may have asked this before, but I want to make 3 sure is that KC provided the proposal, <a href="#">Exhibit 17</a> and 4 <a href="#">Exhibit 7</a>, for structural engineering services; is that 5 correct? 6 A Correct. 7 Q And KC drafted the proposal for structural engineering 8 services, <a href="#">Exhibit 17</a> and <a href="#">Exhibit 7</a>, correct? 9 A Correct. 10 Q KC specifically states in its proposal, <a href="#">Exhibit 7</a> and 11 <a href="#">Exhibit 17</a>, that the project includes a structural 12 analysis of the two cone hoppers, correct? 13 A Correct. 14 Q KC specifically states in its proposal, <a href="#">Exhibit 7</a> and 15 17, that the project includes structural engineering 16 design review of the two hoppers, correct? 17 A Could you state that again? 18 Q Yes. KC specifically states in its proposal, <a href="#">Exhibit 7</a> 19 and 17, that the project includes structural 20 engineering design review of the two hoppers? 21 A Yes. 22 Q In <a href="#">Exhibit 7</a> and 17, under the Scope of Structural 23 Engineering Services, KC will review drawings and 24 calculations, correct? 25 A Correct.</p>	